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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,813	05/08/2006	Paul M. Carter	22409-00288-US	3627
30678 7590 04/23/2009 CONNOLLY BOVE LODGE & HUTZ LLP 1875 EYE STREET, N.W. SUITE 1100 WASHINGTON, DC 20006				
EXAMINER				
DINGA, ROLAND				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/518,813

**Applicant(s)**

CARTER ET AL.

**Examiner**

ROLAND DINGA

**Art Unit**

3766

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,5,7-11 and 13-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2,5,7-11,13-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. However, the current action is made final in view of the amendment of the claims.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims **1-2, 5, 7-11, 13-29** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

With regards to claims **1 and 24**, the applicant uses the term, "CONCURRENTLY".

There is no such term in the original disclosure. The examiner would appreciate, if the applicant can point out where in the specification this term is used.

Claims **2, 5, 7-11, 13-23 and 25-29** are rejected under 35 U.S.C. 112, first paragraph, because they depend on rejected independent claims 1 or 24.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 5, 7, 21- 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Hayhurst (US5477152).

In regards to claims 1 and 24, Hayhurst testing apparatus for concurrently testing components [See title; col. 2, lines 15 -19]. The examiner has taken the position that the testing apparatus (50) is capable to test medical device component, the testing apparatus (50) comprising: a plurality of testing stations (14) configured to receive and communicably couple to a first component being of a first type and a second component being of a second type, wherein the first component is not of the second type and the second component is not of the first type [col. 2, lines 25-31; see fig. 1] and at least one testing circuit communicably coupled to said plurality of testing stations and configured to concurrently apply a test to each of said first and second components and to measure a response of each of said first and second components to said test [see fig. 1-2; col. 2, lines 32-39].

In regards to claim 5, the plurality of testing stations comprise two or more stations configured to receive two or more types of cables and further configured to make an electrical connection to said cables [see fig. 1-2].

In regards to claim 7, each cable testing station for each of said two or more types of cables comprises a socket having a shape that is adapted to receive one of said two or more types of cables[see fig.1].

In regards to claims 21-23, the testing apparatus of claim 1, further comprising an output component for outputting a result and the output component is a light configured to illuminate if the tested component passes the test and the light is a light emitting diode (LED)[col.3, line 26-col.4, line 41].

6. Claims 1, 5, 7, 15-21, 25, 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Strangio (US5280251).

In regards to claims 1 and 24, Strangio discloses testing apparatus (50) in (fig.1) that is capable for concurrently testing components of a medical device, the testing apparatus comprising: a plurality of testing stations (L and R stations in fig.1) configured to receive and communicably couple to a first component being of a first type and a second component being of a second type [see fig.1], wherein the first component is not of the second type and the second component is not of the first type [see fig.1]; and at least one testing circuit [see fig.2] communicably coupled to said plurality of testing stations (R and L) and capable to concurrently apply a test to each of said first and second components and to measure a response of each of said first and second components to said test[col.2, lines 27-30]

In regards to claim 5, the plurality of testing stations (L and R) comprise two or more stations configured to receive two or more types of cables (67LR,66LR,65LR,64LR,63LR,62LR,61LR) and further configured to make an electrical connection to the cables (70) [See fig.1].

In regards to claim 7, each cable testing station (L or R) for each of said two or more types of cables comprises a socket having a shape that is adapted to receive one of said two or more types of cables [see fig1].

In regards to claim 16-19, a control circuit configured to control the operations of the testing apparatus [col.3, lines 5-14], the device of Strangio inherently content and ADC[see analog switches in fig.2 and the signal that goes to serial interface (120) are digital]. The cable test data is save in database [see step E in fig.3; col.9,lines 35-43]

In regards to claim 20, the measurements from said at least one testing circuit is in the form of current and voltage levels, and further wherein said data indicating a desired response to said first test are in the form of voltage and current ranges associated with non-faulty cables and also capable to be associated with transmitter coils used in cochlear implant systems[col.6,lines 18-32].

In regards to claim 21, an output component for outputting a result of the comparison [col.9, lines16-32].

In regards to claim 15,25 and 27, Strangio discloses that the computer provides further database resources wherein the peripheral controlled external housing having the connector groups controlled to provide the desired cable interrogation

and detect signals and further the computer provides database information, wherein the cable under testing may be compared relative to pre-stored reference cable data and variety of determination [col.1,lines 54-col.2,line 2].

In regards to claim 28,a memory component configured to store data indicating a desired response to said first test [col.7,line65;col.9,lines 35-43].

In regards to claim 29, [see col.8,lines 56-col.9,line 32]

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2,8-11,13-14 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayhurst (US5477152) as applied to claim1,24 above, and further in view of Crosby et al (US4,532,930).

In regards to claims 2,8, Hayhurst discloses the invention substantially as claimed but failed to disclose a cochlear implant system with a first and second component comprises a cable and a transmitter coil and coil testing station.

However, Crosby discloses a cochlear implant system for an auditory prosthesis [see title] comprising a cable 26 (the first component) and a transmitter coil 24 (the second component)[see fig.3]. Thus, it would have been obvious to one of

ordinary skills in the art by the time the invention was made to modify Hayhurst to be used to test cochlear implant system cable and transmitter coil since both Crosby and Hayhurst teaches about coaxial cable

In regards to claim 9-10, Hayhurst discloses two testing stations see fig. 1, one of this station could be taken to be the transmitter coil testing station.

Regarding claim 11, Hayhurst fails to disclose a pictorial representation of a transmitter coil. Such would have been obvious to one of ordinary skill in the art to provide a specific location on the testing station with a pictorial representation of a transmitter coil to test the transmitter coil in order that a lay person or the patient can be able to operate the device without the help from a physician.

Regarding claim 13, neither Hayhurst nor Crosby discloses that a magnet is positioned at or below the planar surface of the case; the magnet is adapted to provide magnetic alignment with a magnet within a coil under test and so maintain the coil in the correct place for testing. However, such would have been obvious to one of ordinary skill in the art to provide a magnet underneath the case of the testing station so that the magnet of the coil would attract with the one underneath the case and would help to properly position the transmitter coil for measurement.

Regarding claim 14, Hayhurst fails to disclose tested coil has a cable extending there from that is also testable by the testing apparatus. Such would have been an obvious design choice to have a cable extending there from that is also testable by the testing apparatus in order to provide electrical connection.

Regarding claim 26, Hayhurst failed to disclose magnetically coupling at least one of two components to the testing apparatus. However, it would have been a matter of design choice to have magnetically coupled at least one of two components to the testing board in order to properly test the component that is under test.

### ***Response to Arguments***

9. Applicant's arguments with respect to claims 1-2,5,7-11,13-29 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROLAND DINGA whose telephone number is (571)270-3644. The examiner can normally be reached on Monday through Friday from 8:30am to 5:00pm EST..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl H. Layno can be reached on 571 272 4949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ROLAND DINGA/  
Examiner, Art Unit 3766  
04/14/2009

/Mark W Bockelman/  
Primary Examiner, Art Unit 3766